

113TH CONGRESS  
2D SESSION

# S. 2244

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## AN ACT

To extend the termination date of the Terrorism Insurance Program established under the Terrorism Risk Insurance Act of 2002, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Terrorism Risk Insur-  
3 ance Program Reauthorization Act of 2014”.

4 **SEC. 2. EXTENSION OF TERRORISM INSURANCE PROGRAM.**

5 Section 108(a) of the Terrorism Risk Insurance Act  
6 of 2002 (15 U.S.C. 6701 note) is amended by striking  
7 “December 31, 2014” and inserting “December 31,  
8 2021”.

9 **SEC. 3. FEDERAL SHARE.**

10 Section 103(e)(1)(A) of the Terrorism Risk Insur-  
11 ance Act of 2002 (15 U.S.C. 6701 note) is amended by  
12 inserting “and beginning on January 1, 2016, shall de-  
13 crease by 1 percentage point per calendar year until equal  
14 to 80 percent” after “85 percent”.

15 **SEC. 4. RECOUPMENT OF FEDERAL SHARE OF COMPENSA-**  
16 **TION UNDER THE PROGRAM.**

17 Section 103(e) of the Terrorism Risk Insurance Act  
18 of 2002 (15 U.S.C. 6701 note) is amended—

19 (1) in paragraph (6), in the matter preceding  
20 subparagraph (A), by striking “shall be” and all  
21 that follows through subparagraph (E) and inserting  
22 “shall be the lesser of—

23 “(A) \$27,500,000,000, as such amount is  
24 adjusted pursuant to this paragraph; and

25 “(B) the aggregate amount, for all insur-  
26 ers, of insured losses during such calendar year,

provided that beginning in the calendar year that follows the date of enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2014, the amount set forth under subparagraph (A) shall increase by \$2,000,000,000 per calendar year until equal to \$37,500,000,000.”;

(2) in paragraph (7)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking “for each of the periods referred to in subparagraphs (A) through (E) of paragraph (6)””; and

(ii) in clause (i), by striking “for such period”;

(B) by striking subparagraph (B) and inserting the following:

“(B) [Reserved.]”;

(C) in subparagraph (C)—

(i) by striking “occurring during any of the periods referred to in any of subparagraphs (A) through (E) of paragraph (6), terrorism loss risk-spreading premiums in an amount equal to 133 percent” and inserting “, terrorism loss risk-spread-

ing premiums in an amount equal to 135.5 percent”; and

(ii) by inserting “as calculated under subparagraph (A)” after “mandatory recoupment amount”; and

(D) in subparagraph (E)(i)—

(i) in subclause (I)—

(I) by striking “2010” and inserting “2017”; and

(II) by striking “2012” and inserting “2019”;

(ii) in subclause (II)—

(I) by striking “2011” and inserting “2018”;

(II) by striking “2012” and inserting “2019”; and

(III) by striking “2017” and inserting “2024”; and

(iii) in subclause (III)—

(I) by striking “2012” and inserting “2019”; and

(II) by striking “2017” and inserting “2024”.

1 **SEC. 5. TECHNICAL AMENDMENTS.**

2 The Terrorism Risk Insurance Act of 2002 (15  
3 U.S.C. 6701 note) is amended—

4 (1) in section 102—

5 (A) in paragraph (3)—

6 (i) by redesignating subparagraphs  
7 (A), (B), and (C) as clauses (i), (ii), and  
8 (iii), respectively;

9 (ii) in the matter preceding clause (i)  
10 (as so redesignated), by striking “An enti-  
11 ty has” and inserting the following:

12 “(A) IN GENERAL.—An entity has”; and

13 (iii) by adding at the end the fol-  
14 lowing new subparagraph:

15 “(B) RULE OF CONSTRUCTION.—An enti-  
16 ty, including any affiliate thereof, does not have  
17 ‘control’ over another entity, if, as of the date  
18 of enactment of the Terrorism Risk Insurance  
19 Program Reauthorization Act of 2014, the enti-  
20 ty is acting as an attorney-in-fact, as defined by  
21 the Secretary, for the other entity and such  
22 other entity is a reciprocal insurer, provided  
23 that the entity is not, for reasons other than  
24 the attorney-in-fact relationship, defined as hav-  
25 ing ‘control’ under subparagraph (A).”;

26 (B) in paragraph (7)—

1 (i) by striking subparagraphs (A)  
 2 through (F) and inserting the following:

3 “(A) the value of an insurer’s direct  
 4 earned premiums during the immediately pre-  
 5 ceding calendar year, multiplied by 20 percent;  
 6 and”;

7 (ii) by redesignating subparagraph  
 8 (G) as subparagraph (B); and

9 (iii) in subparagraph (B), as so redес-  
 10 ignated by clause (ii)—

11 (I) by striking “notwithstanding  
 12 subparagraphs (A) through (F), for  
 13 the Transition Period or any Program  
 14 Year” and inserting “notwithstanding  
 15 subparagraph (A), for any calendar  
 16 year”; and

17 (II) by striking “Period or Pro-  
 18 gram Year” and inserting “calendar  
 19 year”;

20 (C) by striking paragraph (11); and

21 (D) by redesignating paragraphs (12)  
 22 through (16) as paragraphs (11) through (15),  
 23 respectively; and

24 (2) in section 103—

1 (A) in subsection (c), by striking “Pro-  
 2 gram Year” and inserting “calendar year”;

3 (B) in subsection (e)—

4 (i) in paragraph (1)—

5 (I) in subparagraph (A), as pre-  
 6 viously amended by section 3—

7 (aa) by striking “the Transi-  
 8 tion Period and each Program  
 9 Year through Program Year 4  
 10 shall be equal to 90 percent, and  
 11 during Program Year 5 and each  
 12 Program Year thereafter” and  
 13 inserting “each calendar year”;

14 (bb) by striking the comma  
 15 after “80 percent”; and

16 (cc) by striking “such Tran-  
 17 sition Period or such Program  
 18 Year” and inserting “such cal-  
 19 endar year”; and

20 (II) in subparagraph (B), by  
 21 striking “exceed” and all that follows  
 22 through clause (ii) and inserting “ex-  
 23 ceed \$100,000,000 with respect to  
 24 such insured losses occurring in the  
 25 calendar year.”;

(ii) in paragraph (2)(A), by striking “the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, or during any Program Year thereafter” and inserting “a calendar year”; and

(iii) in paragraph (3), by striking “the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, or during any other Program Year” and inserting “any calendar year”; and

(C) in subsection (g)(2)—

(i) by striking “the Transition Period or a Program Year” each place that term appears and inserting “the calendar year”;

(ii) by striking “such period” and inserting “the calendar year”; and

(iii) by striking “that period” and inserting “the calendar year”.

## **SEC. 6. IMPROVING THE CERTIFICATION PROCESS.**

(a) DEFINITIONS.—As used in this section—

(1) the term “act of terrorism” has the same meaning as in section 102(1) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note);



1           (2) the term “certification process” means the  
2           process by which the Secretary determines whether  
3           to certify an act as an act of terrorism under section  
4           102(1) of the Terrorism Risk Insurance Act of 2002  
5           (15 U.S.C. 6701 note); and

6           (3) the term “Secretary” means the Secretary  
7           of the Treasury.

8           (b) STUDY.—Not later than 9 months after the date  
9           of enactment of this Act, the Secretary shall conduct and  
10          complete a study on the certification process.

11          (c) REQUIRED CONTENT.—The study required under  
12          subsection (a) shall include an examination and analysis  
13          of—

14               (1) the establishment of a reasonable timeline  
15               by which the Secretary must make an accurate de-  
16               termination on whether to certify an act as an act  
17               of terrorism;

18               (2) the impact that the length of any timeline  
19               proposed to be established under paragraph (1) may  
20               have on the insurance industry, policyholders, con-  
21               sumers, and taxpayers as a whole;

22               (3) the factors the Secretary would evaluate  
23               and monitor during the certification process, includ-  
24               ing the ability of the Secretary to obtain the re-  
25               quired information regarding the amount of pro-

1       jected and incurred losses resulting from an act  
2       which the Secretary would need in determining  
3       whether to certify the act as an act of terrorism;

4               (4) the appropriateness, efficiency, and effec-  
5       tiveness of the consultation process required under  
6       section 102(1)(A) of the Terrorism Risk Insurance  
7       Act of 2002 (15 U.S.C. 6701 note) and any rec-  
8       ommendations on changes to the consultation proc-  
9       ess; and

10              (5) the ability of the Secretary to provide guid-  
11       ance and updates to the public regarding any act  
12       that may reasonably be certified as an act of ter-  
13       rorism.

14       (d) REPORT.—Upon completion of the study required  
15       under subsection (a), the Secretary shall submit a report  
16       on the results of such study to the Committee on Banking,  
17       Housing, and Urban Affairs of the Senate and the Com-  
18       mittee on Financial Services of the House of Representa-  
19       tives.

20       (e) RULEMAKING.—Section 102(1) of the Terrorism  
21       Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is  
22       amended—

23              (1) by redesignating subparagraph (D) as sub-  
24       paragraph (E); and

1           (2) by inserting after subparagraph (C) the fol-  
2       lowing:

3           “(D) **TIMING OF CERTIFICATION.**—Not  
4       later than 9 months after the report required  
5       under section 6 of the Terrorism Risk Insur-  
6       ance Program Reauthorization Act of 2014 is  
7       submitted to the appropriate committees of  
8       Congress, the Secretary shall issue final rules  
9       governing the certification process, including  
10      any timeline applicable to any certification by  
11      the Secretary on whether an act is an act of  
12      terrorism under this paragraph.”.

13 **SEC. 7. GAO STUDY ON UPFRONT PREMIUMS.**

14      (a) **STUDY.**—Not later than 2 years after the date  
15      of enactment of this Act, the Comptroller General of the  
16      United States shall complete a study on the viability and  
17      effects of the Federal Government assessing and collecting  
18      upfront premiums on insurers that participate in the Ter-  
19      rorism Insurance Program established under the Ter-  
20      rorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note)  
21      (hereafter in this section referred to as the “Program”).

22      (b) **REQUIRED CONTENT.**—The study required under  
23      subsection (a) shall examine, but shall not be limited to,  
24      the following issues:

1           (1) How the Federal Government could deter-  
2 mine the price of such upfront premiums on insurers  
3 that participate in the Program.

4           (2) How the Federal Government could collect  
5 and manage such upfront premiums.

6           (3) How the Federal Government could ensure  
7 that such upfront premiums are not spent for pur-  
8 poses other than claims through the Program.

9           (4) How the assessment and collection of such  
10 upfront premiums could affect take-up rates for ter-  
11 rorism risk coverage in different regions and indus-  
12 tries and how it could impact small businesses and  
13 consumers in both metropolitan and non-metropoli-  
14 tan areas.

15          (5) The effect of collecting such upfront pre-  
16 miums on insurers both large and small.

17          (6) The effect of collecting such upfront pre-  
18 miums on the private market for terrorism risk rein-  
19 surance.

20          (7) The size of any Federal Government sub-  
21 sidy insurers may receive through their participation  
22 in the Program, taking into account the Program's  
23 current post-event recoupment structure.

24       (c) REPORT.—Upon completion of the study required  
25 under subsection (a), the Comptroller General shall sub-

1 mit a report on the results of such study to the Committee  
 2 on Banking, Housing, and Urban Affairs of the Senate  
 3 and the Committee on Financial Services of the House of  
 4 Representatives.

5 (d) PUBLIC AVAILABILITY.—The study and report  
 6 required under this section shall be made available to the  
 7 public in electronic form and shall be published on the  
 8 website of the Government Accountability Office.

9 **SEC. 8. MEMBERSHIP OF BOARD OF GOVERNORS OF THE**  
 10 **FEDERAL RESERVE SYSTEM.**

11 (a) IN GENERAL.—The first undesignated paragraph  
 12 of section 10 of the Federal Reserve Act (12 U.S.C. 241)  
 13 is amended by inserting after the second sentence the fol-  
 14 lowing: “In selecting members of the Board, the President  
 15 shall appoint at least 1 member with demonstrated pri-  
 16 mary experience working in or supervising community  
 17 banks having less than \$10,000,000,000 in total assets.”.

18 (b) EFFECTIVE DATE.—The amendment made by  
 19 this section shall take effect on the date of enactment of  
 20 this Act and apply to appointments made on and after  
 21 that effective date, excluding any nomination pending in  
 22 the Senate on that date.

23 **SEC. 9. ADVISORY COMMITTEE ON RISK-SHARING MECHA-**  
 24 **NISMS.**

25 (a) FINDING; RULE OF CONSTRUCTION.—

1           (1) FINDING.—Congress finds that it is desir-  
2     able to encourage the growth of nongovernmental,  
3     private market reinsurance capacity for protection  
4     against losses arising from acts of terrorism.

5           (2) RULE OF CONSTRUCTION.—Nothing in this  
6     Act, any amendment made by this Act, or the Ter-  
7     rorism Risk Insurance Act of 2002 (15 U.S.C. 6701  
8     note) shall prohibit insurers from developing risk-  
9     sharing mechanisms to voluntarily reinsure terrorism  
10    losses between and among themselves.

11    (b) ADVISORY COMMITTEE ON RISK-SHARING MECH-  
12    ANISMS.—

13           (1) ESTABLISHMENT.—The Secretary of the  
14    Treasury shall establish and appoint an advisory  
15    committee to be known as the “Advisory Committee  
16    on Risk-Sharing Mechanisms” (referred to in this  
17    subsection as the “Advisory Committee”).

18           (2) DUTIES.—The Advisory Committee shall  
19    provide advice, recommendations, and encourage-  
20    ment with respect to the creation and development  
21    of the nongovernmental risk-sharing mechanisms de-  
22    scribed under subsection (a).

23           (3) MEMBERSHIP.—The Advisory Committee  
24    shall be composed of 9 members who are directors,  
25    officers, or other employees of insurers, reinsurers,

1 or capital market participants that are participating  
 2 or that desire to participate in the nongovernmental  
 3 risk-sharing mechanisms described under subsection  
 4 (a), and who are representative of the affected sec-  
 5 tors of the insurance industry, including commercial  
 6 property insurance, commercial casualty insurance,  
 7 reinsurance, and alternative risk transfer industries.  
 8 (c) EFFECTIVE DATE.—The provisions of this section  
 9 shall take effect on January 1, 2015.

10 **TITLE II—NATIONAL ASSOCIA-**  
 11 **TION OF REGISTERED**  
 12 **AGENTS AND BROKERS**

13 **SEC. 201. SHORT TITLE.**

14 This title may be cited as the “National Association  
 15 of Registered Agents and Brokers Reform Act of 2014”.

16 **SEC. 202. REESTABLISHMENT OF THE NATIONAL ASSOCIA-**  
 17 **TION OF REGISTERED AGENTS AND BRO-**  
 18 **KERS.**

19 (a) IN GENERAL.—Subtitle C of title III of the  
 20 Gramm-Leach-Bliley Act (15 U.S.C. 6751 et seq.) is  
 21 amended to read as follows:

1   **“Subtitle C—National Association**  
 2   **of Registered Agents and Brokers**

3   **“SEC. 321. NATIONAL ASSOCIATION OF REGISTERED**  
 4   **AGENTS AND BROKERS.**

5       “(a) ESTABLISHMENT.—There is established the Na-  
 6   tional Association of Registered Agents and Brokers (re-  
 7   ferred to in this subtitle as the ‘Association’).

8       “(b) STATUS.—The Association shall—

9           “(1) be a nonprofit corporation;

10          “(2) not be an agent or instrumentality of the  
 11   Federal Government;

12          “(3) be an independent organization that may  
 13   not be merged with or into any other private or pub-  
 14   lic entity; and

15          “(4) except as otherwise provided in this sub-  
 16   title, be subject to, and have all the powers conferred  
 17   upon, a nonprofit corporation by the District of Co-  
 18   lumbia Nonprofit Corporation Act (D.C. Code, sec.  
 19   29–301.01 et seq.) or any successor thereto.

20   **“SEC. 322. PURPOSE.**

21       “The purpose of the Association shall be to provide  
 22   a mechanism through which licensing, continuing edu-  
 23   cation, and other nonresident insurance producer quali-  
 24   fication requirements and conditions may be adopted and  
 25   applied on a multi-state basis without affecting the laws,



1 rules, and regulations, and preserving the rights of a  
2 State, pertaining to—

3 “(1) licensing, continuing education, and other  
4 qualification requirements of insurance producers  
5 that are not members of the Association;

6 “(2) resident or nonresident insurance producer  
7 appointment requirements;

8 “(3) supervising and disciplining resident and  
9 nonresident insurance producers;

10 “(4) establishing licensing fees for resident and  
11 nonresident insurance producers so that there is no  
12 loss of insurance producer licensing revenue to the  
13 State; and

14 “(5) prescribing and enforcing laws and regula-  
15 tions regulating the conduct of resident and non-  
16 resident insurance producers.

17 **“SEC. 323. MEMBERSHIP.**

18 “(a) ELIGIBILITY.—

19 “(1) IN GENERAL.—Any insurance producer li-  
20 censed in its home State shall, subject to paragraphs  
21 (2) and (4), be eligible to become a member of the  
22 Association.

23 “(2) INELIGIBILITY FOR SUSPENSION OR REV-  
24 OCATION OF LICENSE.—Subject to paragraph (3),  
25 an insurance producer is not eligible to become a

1 member of the Association if a State insurance regu-  
2 lator has suspended or revoked the insurance license  
3 of the insurance producer in that State.

4 “(3) RESUMPTION OF ELIGIBILITY.—Paragraph  
5 (2) shall cease to apply to any insurance producer  
6 if—

7 “(A) the State insurance regulator reissues  
8 or renews the license of the insurance producer  
9 in the State in which the license was suspended  
10 or revoked, or otherwise terminates or vacates  
11 the suspension or revocation; or

12 “(B) the suspension or revocation expires  
13 or is subsequently overturned by a court of  
14 competent jurisdiction.

15 “(4) CRIMINAL HISTORY RECORD CHECK RE-  
16 QUIRED.—

17 “(A) IN GENERAL.—An insurance pro-  
18 ducer who is an individual shall not be eligible  
19 to become a member of the Association unless  
20 the insurance producer has undergone a crimi-  
21 nal history record check that complies with reg-  
22 ulations prescribed by the Attorney General of  
23 the United States under subparagraph (K).

24 “(B) CRIMINAL HISTORY RECORD CHECK  
25 REQUESTED BY HOME STATE.—An insurance

1 producer who is licensed in a State and who has  
2 undergone a criminal history record check dur-  
3 ing the 2-year period preceding the date of sub-  
4 mission of an application to become a member  
5 of the Association, in compliance with a re-  
6 quirement to undergo such criminal history  
7 record check as a condition for such licensure  
8 in the State, shall be deemed to have undergone  
9 a criminal history record check for purposes of  
10 subparagraph (A).

11 “(C) CRIMINAL HISTORY RECORD CHECK  
12 REQUESTED BY ASSOCIATION.—

13 “(i) IN GENERAL.—The Association  
14 shall, upon request by an insurance pro-  
15 ducer licensed in a State, submit finger-  
16 prints or other identification information  
17 obtained from the insurance producer, and  
18 a request for a criminal history record  
19 check of the insurance producer, to the  
20 Federal Bureau of Investigation.

21 “(ii) PROCEDURES.—The board of di-  
22 rectors of the Association (referred to in  
23 this subtitle as the ‘Board’) shall prescribe  
24 procedures for obtaining and utilizing fin-  
25 gerprints or other identification informa-

tion and criminal history record information, including the establishment of reasonable fees to defray the expenses of the Association in connection with the performance of a criminal history record check and appropriate safeguards for maintaining confidentiality and security of the information. Any fees charged pursuant to this clause shall be separate and distinct from those charged by the Attorney General pursuant to subparagraph (I).

“(D) FORM OF REQUEST.—A submission under subparagraph (C)(i) shall include such fingerprints or other identification information as is required by the Attorney General concerning the person about whom the criminal history record check is requested, and a statement signed by the person authorizing the Attorney General to provide the information to the Association and for the Association to receive the information.

“(E) PROVISION OF INFORMATION BY ATTORNEY GENERAL.—Upon receiving a submission under subparagraph (C)(i) from the Association, the Attorney General shall search all

1 criminal history records of the Federal Bureau  
2 of Investigation, including records of the Crimi-  
3 nal Justice Information Services Division of the  
4 Federal Bureau of Investigation, that the At-  
5 torney General determines appropriate for  
6 criminal history records corresponding to the  
7 fingerprints or other identification information  
8 provided under subparagraph (D) and provide  
9 all criminal history record information included  
10 in the request to the Association.

11 “(F) LIMITATION ON PERMISSIBLE USES  
12 OF INFORMATION.—Any information provided  
13 to the Association under subparagraph (E) may  
14 only—

15 “(i) be used for purposes of deter-  
16 mining compliance with membership cri-  
17 teria established by the Association;

18 “(ii) be disclosed to State insurance  
19 regulators, or Federal or State law en-  
20 forcement agencies, in conformance with  
21 applicable law; or

22 “(iii) be disclosed, upon request, to  
23 the insurance producer to whom the crimi-  
24 nal history record information relates.

1           “(G) PENALTY FOR IMPROPER USE OR  
2           DISCLOSURE.—Whoever knowingly uses any in-  
3           formation provided under subparagraph (E) for  
4           a purpose not authorized in subparagraph (F),  
5           or discloses any such information to anyone not  
6           authorized to receive it, shall be fined not more  
7           than \$50,000 per violation as determined by a  
8           court of competent jurisdiction.

9           “(H) RELIANCE ON INFORMATION.—Nei-  
10          ther the Association nor any of its Board mem-  
11          bers, officers, or employees shall be liable in  
12          any action for using information provided under  
13          subparagraph (E) as permitted under subpara-  
14          graph (F) in good faith and in reasonable reli-  
15          ance on its accuracy.

16          “(I) FEES.—The Attorney General may  
17          charge a reasonable fee for conducting the  
18          search and providing the information under  
19          subparagraph (E), and any such fee shall be  
20          collected and remitted by the Association to the  
21          Attorney General.

22          “(J) RULE OF CONSTRUCTION.—Nothing  
23          in this paragraph shall be construed as—

“(i) requiring a State insurance regulator to perform criminal history record checks under this section; or

“(ii) limiting any other authority that allows access to criminal history records.

“(K) REGULATIONS.—The Attorney General shall prescribe regulations to carry out this paragraph, which shall include—

“(i) appropriate protections for ensuring the confidentiality of information provided under subparagraph (E); and

“(ii) procedures providing a reasonable opportunity for an insurance producer to contest the accuracy of information regarding the insurance producer provided under subparagraph (E).

“(L) INELIGIBILITY FOR MEMBERSHIP.—

“(i) IN GENERAL.—The Association may, under reasonably consistently applied standards, deny membership to an insurance producer on the basis of criminal history record information provided under subparagraph (E), or where the insurance producer has been subject to disciplinary action, as described in paragraph (2).

1 “(ii) RIGHTS OF APPLICANTS DENIED  
 2 MEMBERSHIP.—The Association shall no-  
 3 tify any insurance producer who is denied  
 4 membership on the basis of criminal his-  
 5 tory record information provided under  
 6 subparagraph (E) of the right of the insur-  
 7 ance producer to—

8 “(I) obtain a copy of all criminal  
 9 history record information provided to  
 10 the Association under subparagraph  
 11 (E) with respect to the insurance pro-  
 12 ducer; and

13 “(II) challenge the denial of  
 14 membership based on the accuracy  
 15 and completeness of the information.

16 “(M) DEFINITION.—For purposes of this  
 17 paragraph, the term ‘criminal history record  
 18 check’ means a national background check of  
 19 criminal history records of the Federal Bureau  
 20 of Investigation.

21 “(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRI-  
 22 TERIA.—The Association may establish membership cri-  
 23 teria that bear a reasonable relationship to the purposes  
 24 for which the Association was established.



1 “(c) ESTABLISHMENT OF CLASSES AND CATEGORIES  
2 OF MEMBERSHIP.—

3 “(1) CLASSES OF MEMBERSHIP.—The Associa-  
4 tion may establish separate classes of membership,  
5 with separate criteria, if the Association reasonably  
6 determines that performance of different duties re-  
7 quires different levels of education, training, experi-  
8 ence, or other qualifications.

9 “(2) BUSINESS ENTITIES.—The Association  
10 shall establish a class of membership and member-  
11 ship criteria for business entities. A business entity  
12 that applies for membership shall be required to des-  
13 ignate an individual Association member responsible  
14 for the compliance of the business entity with Asso-  
15 ciation standards and the insurance laws, rules, and  
16 regulations of any State in which the business entity  
17 seeks to do business on the basis of Association  
18 membership.

19 “(3) CATEGORIES.—

20 “(A) SEPARATE CATEGORIES FOR INSUR-  
21 ANCE PRODUCERS PERMITTED.—The Associa-  
22 tion may establish separate categories of mem-  
23 bership for insurance producers and for other  
24 persons or entities within each class, based on

1           the types of licensing categories that exist  
2           under State laws.

3           “(B) SEPARATE TREATMENT FOR DEPOSI-  
4           TORY INSTITUTIONS PROHIBITED.—No special  
5           categories of membership, and no distinct mem-  
6           bership criteria, shall be established for mem-  
7           bers that are depository institutions or for em-  
8           ployees, agents, or affiliates of depository insti-  
9           tutions.

10          “(d) MEMBERSHIP CRITERIA.—

11           “(1) IN GENERAL.—The Association may estab-  
12          lish criteria for membership which shall include  
13          standards for personal qualifications, education,  
14          training, and experience. The Association shall not  
15          establish criteria that unfairly limit the ability of a  
16          small insurance producer to become a member of the  
17          Association, including imposing discriminatory mem-  
18          bership fees.

19           “(2) QUALIFICATIONS.—In establishing criteria  
20          under paragraph (1), the Association shall not adopt  
21          any qualification less protective to the public than  
22          that contained in the National Association of Insur-  
23          ance Commissioners (referred to in this subtitle as  
24          the ‘NAIC’) Producer Licensing Model Act in effect  
25          as of the date of enactment of the National Associa-

tion of Registered Agents and Brokers Reform Act of 2014, and shall consider the highest levels of insurance producer qualifications established under the licensing laws of the States.

“(3) ASSISTANCE FROM STATES.—

“(A) IN GENERAL.—The Association may request a State to provide assistance in investigating and evaluating the eligibility of a prospective member for membership in the Association.

“(B) AUTHORIZATION OF INFORMATION SHARING.—A submission under subsection (a)(4)(C)(i) made by an insurance producer licensed in a State shall include a statement signed by the person about whom the assistance is requested authorizing—

“(i) the State to share information with the Association; and

“(ii) the Association to receive the information.

“(C) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as requiring or authorizing any State to adopt new or additional requirements concerning the licensing or evaluation of insurance producers.

1           “(4) DENIAL OF MEMBERSHIP.—The Associa-  
 2           tion may, based on reasonably consistently applied  
 3           standards, deny membership to any State-licensed  
 4           insurance producer for failure to meet the member-  
 5           ship criteria established by the Association.

6           “(e) EFFECT OF MEMBERSHIP.—

7           “(1) AUTHORITY OF ASSOCIATION MEMBERS.—  
 8           Membership in the Association shall—

9                   “(A) authorize an insurance producer to  
 10                  sell, solicit, or negotiate insurance in any State  
 11                  for which the member pays the licensing fee set  
 12                  by the State for any line or lines of insurance  
 13                  specified in the home State license of the insur-  
 14                  ance producer, and exercise all such incidental  
 15                  powers as shall be necessary to carry out such  
 16                  activities, including claims adjustments and set-  
 17                  tlement to the extent permissible under the laws  
 18                  of the State, risk management, employee bene-  
 19                  fits advice, retirement planning, and any other  
 20                  insurance-related consulting activities;

21                   “(B) be the equivalent of a nonresident in-  
 22                  surance producer license for purposes of author-  
 23                  izing the insurance producer to engage in the  
 24                  activities described in subparagraph (A) in any

1 State where the member pays the licensing fee;  
 2 and

3 “(C) be the equivalent of a nonresident in-  
 4 surance producer license for the purpose of sub-  
 5 jecting an insurance producer to all laws, regu-  
 6 lations, provisions or other action of any State  
 7 concerning revocation, suspension, or other en-  
 8 forcement action related to the ability of a  
 9 member to engage in any activity within the  
 10 scope of authority granted under this subsection  
 11 and to all State laws, regulations, provisions,  
 12 and actions preserved under paragraph (5).

13 “(2) VIOLENT CRIME CONTROL AND LAW EN-  
 14 FORCEMENT ACT OF 1994.—Nothing in this subtitle  
 15 shall be construed to alter, modify, or supercede any  
 16 requirement established by section 1033 of title 18,  
 17 United States Code.

18 “(3) AGENT FOR REMITTING FEES.—The Asso-  
 19 ciation shall act as an agent for any member for  
 20 purposes of remitting licensing fees to any State  
 21 pursuant to paragraph (1).

22 “(4) NOTIFICATION OF ACTION.—

23 “(A) IN GENERAL.—The Association shall  
 24 notify the States (including State insurance  
 25 regulators) and the NAIC when an insurance

1 producer has satisfied the membership criteria  
 2 of this section. The States (including State in-  
 3 surance regulators) shall have 10 business days  
 4 after the date of the notification in order to  
 5 provide the Association with evidence that the  
 6 insurance producer does not satisfy the criteria  
 7 for membership in the Association.

8 “(B) ONGOING DISCLOSURES REQUIRED.—

9 On an ongoing basis, the Association shall dis-  
 10 close to the States (including State insurance  
 11 regulators) and the NAIC a list of the States  
 12 in which each member is authorized to operate.  
 13 The Association shall immediately notify the  
 14 States (including State insurance regulators)  
 15 and the NAIC when a member is newly author-  
 16 ized to operate in one or more States, or is no  
 17 longer authorized to operate in one or more  
 18 States on the basis of Association membership.

19 “(5) PRESERVATION OF CONSUMER PROTEC-  
 20 TION AND MARKET CONDUCT REGULATION.—

21 “(A) IN GENERAL.—No provision of this  
 22 section shall be construed as altering or affect-  
 23 ing the applicability or continuing effectiveness  
 24 of any law, regulation, provision, or other action  
 25 of any State, including those described in sub-

paragraph (B), to the extent that the State law, regulation, provision, or other action is not inconsistent with the provisions of this subtitle related to market entry for nonresident insurance producers, and then only to the extent of the inconsistency.

“(B) PRESERVED REGULATIONS.—The laws, regulations, provisions, or other actions of any State referred to in subparagraph (A) include laws, regulations, provisions, or other actions that—

“(i) regulate market conduct, insurance producer conduct, or unfair trade practices;

“(ii) establish consumer protections;

or

“(iii) require insurance producers to be appointed by a licensed or authorized insurer.

“(f) BIENNIAL RENEWAL.—Membership in the Association shall be renewed on a biennial basis.

“(g) CONTINUING EDUCATION.—

“(1) IN GENERAL.—The Association shall establish, as a condition of membership, continuing education requirements which shall be comparable to

1 the continuing education requirements under the li-  
2 censing laws of a majority of the States.

3 “(2) STATE CONTINUING EDUCATION REQUIRE-  
4 MENTS.—A member may not be required to satisfy  
5 continuing education requirements imposed under  
6 the laws, regulations, provisions, or actions of any  
7 State other than the home State of the member.

8 “(3) RECIPROCITY.—The Association shall not  
9 require a member to satisfy continuing education re-  
10 quirements that are equivalent to any continuing  
11 education requirements of the home State of the  
12 member that have been satisfied by the member dur-  
13 ing the applicable licensing period.

14 “(4) LIMITATION ON THE ASSOCIATION.—The  
15 Association shall not directly or indirectly offer any  
16 continuing education courses for insurance pro-  
17 ducers.

18 “(h) PROBATION, SUSPENSION AND REVOCATION.—

19 “(1) DISCIPLINARY ACTION.—The Association  
20 may place an insurance producer that is a member  
21 of the Association on probation or suspend or revoke  
22 the membership of the insurance producer in the As-  
23 sociation, or assess monetary fines or penalties, as  
24 the Association determines to be appropriate, if—



1           “(A) the insurance producer fails to meet  
2           the applicable membership criteria or other  
3           standards established by the Association;

4           “(B) the insurance producer has been sub-  
5           ject to disciplinary action pursuant to a final  
6           adjudicatory proceeding under the jurisdiction  
7           of a State insurance regulator;

8           “(C) an insurance license held by the in-  
9           surance producer has been suspended or re-  
10          voked by a State insurance regulator; or

11          “(D) the insurance producer has been con-  
12          victed of a crime that would have resulted in  
13          the denial of membership pursuant to sub-  
14          section (a)(4)(L)(i) at the time of application,  
15          and the Association has received a copy of the  
16          final disposition from a court of competent ju-  
17          risdiction.

18          “(2) VIOLATIONS OF ASSOCIATION STAND-  
19          ARDS.—The Association shall have the power to in-  
20          vestigate alleged violations of Association standards.

21          “(3) REPORTING.—The Association shall imme-  
22          diately notify the States (including State insurance  
23          regulators) and the NAIC when the membership of  
24          an insurance producer has been placed on probation  
25          or has been suspended, revoked, or otherwise termi-

1 nated, or when the Association has assessed mone-  
 2 tary fines or penalties.

3 “(i) CONSUMER COMPLAINTS.—

4 “(1) IN GENERAL.—The Association shall—

5 “(A) refer any complaint against a mem-  
 6 ber of the Association from a consumer relating  
 7 to alleged misconduct or violations of State in-  
 8 surance laws to the State insurance regulator  
 9 where the consumer resides and, when appro-  
 10 priate, to any additional State insurance regu-  
 11 lator, as determined by standards adopted by  
 12 the Association; and

13 “(B) make any related records and infor-  
 14 mation available to each State insurance regu-  
 15 lator to whom the complaint is forwarded.

16 “(2) TELEPHONE AND OTHER ACCESS.—The  
 17 Association shall maintain a toll-free number for  
 18 purposes of this subsection and, as practicable, other  
 19 alternative means of communication with consumers,  
 20 such as an Internet webpage.

21 “(3) FINAL DISPOSITION OF INVESTIGATION.—  
 22 State insurance regulators shall provide the Associa-  
 23 tion with information regarding the final disposition  
 24 of a complaint referred pursuant to paragraph  
 25 (1)(A), but nothing shall be construed to compel a

1 State to release confidential investigation reports or  
2 other information protected by State law to the As-  
3 sociation.

4 “(j) INFORMATION SHARING.—The Association  
5 may—

6 “(1) share documents, materials, or other infor-  
7 mation, including confidential and privileged docu-  
8 ments, with a State, Federal, or international gov-  
9 ernmental entity or with the NAIC or other appro-  
10 priate entity referenced in paragraphs (3) and (4),  
11 provided that the recipient has the authority and  
12 agrees to maintain the confidentiality or privileged  
13 status of the document, material, or other informa-  
14 tion;

15 “(2) limit the sharing of information as re-  
16 quired under this subtitle with the NAIC or any  
17 other non-governmental entity, in circumstances  
18 under which the Association determines that the  
19 sharing of such information is unnecessary to fur-  
20 ther the purposes of this subtitle;

21 “(3) establish a central clearinghouse, or utilize  
22 the NAIC or another appropriate entity, as deter-  
23 mined by the Association, as a central clearinghouse,  
24 for use by the Association and the States (including  
25 State insurance regulators), through which members

1 of the Association may disclose their intent to oper-  
 2 ate in 1 or more States and pay the licensing fees  
 3 to the appropriate States; and

4 “(4) establish a database, or utilize the NAIC  
 5 or another appropriate entity, as determined by the  
 6 Association, as a database, for use by the Associa-  
 7 tion and the States (including State insurance regu-  
 8 lators) for the collection of regulatory information  
 9 concerning the activities of insurance producers.

10 “(k) EFFECTIVE DATE.—The provisions of this sec-  
 11 tion shall take effect on the later of—

12 “(1) the expiration of the 2-year period begin-  
 13 ning on the date of enactment of the National Asso-  
 14 ciation of Registered Agents and Brokers Reform  
 15 Act of 2014; and

16 “(2) the date of incorporation of the Associa-  
 17 tion.

18 **“SEC. 324. BOARD OF DIRECTORS.**

19 “(a) ESTABLISHMENT.—There is established a board  
 20 of directors of the Association, which shall have authority  
 21 to govern and supervise all activities of the Association.

22 “(b) POWERS.—The Board shall have such of the  
 23 powers and authority of the Association as may be speci-  
 24 fied in the bylaws of the Association.

25 “(c) COMPOSITION.—

1           “(1) IN GENERAL.—The Board shall consist of  
 2       13 members who shall be appointed by the Presi-  
 3       dent, by and with the advice and consent of the Sen-  
 4       ate, in accordance with the procedures established  
 5       under Senate Resolution 116 of the 112th Congress,  
 6       of whom—

7           “(A) 8 shall be State insurance commis-  
 8       sioners appointed in the manner provided in  
 9       paragraph (2), 1 of whom shall be designated  
 10      by the President to serve as the chairperson of  
 11      the Board until the Board elects one such State  
 12      insurance commissioner Board member to serve  
 13      as the chairperson of the Board;

14          “(B) 3 shall have demonstrated expertise  
 15      and experience with property and casualty in-  
 16      surance producer licensing; and

17          “(C) 2 shall have demonstrated expertise  
 18      and experience with life or health insurance  
 19      producer licensing.

20          “(2) STATE INSURANCE REGULATOR REP-  
 21      RESENTATIVES.—

22          “(A) RECOMMENDATIONS.—Before making  
 23      any appointments pursuant to paragraph  
 24      (1)(A), the President shall request a list of rec-  
 25      ommended candidates from the States through

1 the NAIC, which shall not be binding on the  
 2 President. If the NAIC fails to submit a list of  
 3 recommendations not later than 15 business  
 4 days after the date of the request, the President  
 5 may make the requisite appointments without  
 6 considering the views of the NAIC.

7 “(B) POLITICAL AFFILIATION.—Not more  
 8 than 4 Board members appointed under para-  
 9 graph (1)(A) shall belong to the same political  
 10 party.

11 “(C) FORMER STATE INSURANCE COMMIS-  
 12 SIONERS.—

13 “(i) IN GENERAL.—If, after offering  
 14 each currently serving State insurance  
 15 commissioner an appointment to the  
 16 Board, fewer than 8 State insurance com-  
 17 missioners have accepted appointment to  
 18 the Board, the President may appoint the  
 19 remaining State insurance commissioner  
 20 Board members, as required under para-  
 21 graph (1)(A), of the appropriate political  
 22 party as required under subparagraph (B),  
 23 from among individuals who are former  
 24 State insurance commissioners.

1                   “(ii) LIMITATION.—A former State  
 2                   insurance commissioner appointed as de-  
 3                   scribed in clause (i) may not be employed  
 4                   by or have any present direct or indirect fi-  
 5                   nancial interest in any insurer, insurance  
 6                   producer, or other entity in the insurance  
 7                   industry, other than direct or indirect own-  
 8                   ership of, or beneficial interest in, an in-  
 9                   surance policy or annuity contract written  
 10                  or sold by an insurer.

11                  “(D) SERVICE THROUGH TERM.—If a  
 12                  Board member appointed under paragraph  
 13                  (1)(A) ceases to be a State insurance commis-  
 14                  sioner during the term of the Board member,  
 15                  the Board member shall cease to be a Board  
 16                  member.

17                  “(3) PRIVATE SECTOR REPRESENTATIVES.—In  
 18                  making any appointment pursuant to subparagraph  
 19                  (B) or (C) of paragraph (1), the President may seek  
 20                  recommendations for candidates from groups rep-  
 21                  resenting the category of individuals described,  
 22                  which shall not be binding on the President.

23                  “(4) STATE INSURANCE COMMISSIONER DE-  
 24                  FINED.—For purposes of this subsection, the term  
 25                  ‘State insurance commissioner’ means a person who

1 serves in the position in State government, or on the  
 2 board, commission, or other body that is the primary  
 3 insurance regulatory authority for the State.

4 “(d) TERMS.—

5 “(1) IN GENERAL.—Except as provided under  
 6 paragraph (2), the term of service for each Board  
 7 member shall be 2 years.

8 “(2) EXCEPTIONS.—

9 “(A) 1-YEAR TERMS.—The term of service  
 10 shall be 1 year, as designated by the President  
 11 at the time of the nomination of the subject  
 12 Board members for—

13 “(i) 4 of the State insurance commis-  
 14 sioner Board members initially appointed  
 15 under paragraph (1)(A), of whom not more  
 16 than 2 shall belong to the same political  
 17 party;

18 “(ii) 1 of the Board members initially  
 19 appointed under paragraph (1)(B); and

20 “(iii) 1 of the Board members initially  
 21 appointed under paragraph (1)(C).

22 “(B) EXPIRATION OF TERM.—A Board  
 23 member may continue to serve after the expira-  
 24 tion of the term to which the Board member



1           was appointed for the earlier of 2 years or until  
2           a successor is appointed.

3           “(C)     MID-TERM     APPOINTMENTS.—A  
4           Board member appointed to fill a vacancy oc-  
5           curring before the expiration of the term for  
6           which the predecessor of the Board member  
7           was appointed shall be appointed only for the  
8           remainder of that term.

9           “(3)    SUCCESSIVE   TERMS.—Board   members  
10          may be reappointed to successive terms.

11          “(e)   INITIAL APPOINTMENTS.—The appointment of  
12          initial Board members shall be made no later than 90 days  
13          after the date of enactment of the National Association  
14          of Registered Agents and Brokers Reform Act of 2014.

15          “(f)   MEETINGS.—

16                 “(1)   IN GENERAL.—The Board shall meet—

17                         “(A) at the call of the chairperson;

18                         “(B) as requested in writing to the chair-  
19                         person by not fewer than 5 Board members; or

20                         “(C) as otherwise provided by the bylaws  
21                         of the Association.

22                 “(2)   QUORUM REQUIRED.—A majority of all  
23          Board members shall constitute a quorum.

1           “(3) VOTING.—Decisions of the Board shall re-  
2       quire the approval of a majority of all Board mem-  
3       bers present at a meeting, a quorum being present.

4           “(4) INITIAL MEETING.—The Board shall hold  
5       its first meeting not later than 45 days after the  
6       date on which all initial Board members have been  
7       appointed.

8           “(g) RESTRICTION ON CONFIDENTIAL INFORMA-  
9       TION.—Board members appointed pursuant to subpara-  
10      graphs (B) and (C) of subsection (c)(1) shall not have ac-  
11      cess to confidential information received by the Associa-  
12      tion in connection with complaints, investigations, or dis-  
13      ciplinary proceedings involving insurance producers.

14          “(h) ETHICS AND CONFLICTS OF INTEREST.—The  
15      Board shall issue and enforce an ethical conduct code to  
16      address permissible and prohibited activities of Board  
17      members and Association officers, employees, agents, or  
18      consultants. The code shall, at a minimum, include provi-  
19      sions that prohibit any Board member or Association offi-  
20      cer, employee, agent or consultant from—

21           “(1) engaging in unethical conduct in the  
22      course of performing Association duties;

23           “(2) participating in the making or influencing  
24      the making of any Association decision, the outcome  
25      of which the Board member, officer, employee,

1 agent, or consultant knows or had reason to know  
 2 would have a reasonably foreseeable material finan-  
 3 cial effect, distinguishable from its effect on the pub-  
 4 lic generally, on the person or a member of the im-  
 5 mediate family of the person;

6 “(3) accepting any gift from any person or enti-  
 7 ty other than the Association that is given because  
 8 of the position held by the person in the Association;

9 “(4) making political contributions to any per-  
 10 son or entity on behalf of the Association; and

11 “(5) lobbying or paying a person to lobby on  
 12 behalf of the Association.

13 “(i) COMPENSATION.—

14 “(1) IN GENERAL.—Except as provided in para-  
 15 graph (2), no Board member may receive any com-  
 16 pensation from the Association or any other person  
 17 or entity on account of Board membership.

18 “(2) TRAVEL EXPENSES AND PER DIEM.—  
 19 Board members may be reimbursed only by the As-  
 20 sociation for travel expenses, including per diem in  
 21 lieu of subsistence, at rates consistent with rates au-  
 22 thorized for employees of Federal agencies under  
 23 subchapter I of chapter 57 of title 5, United States  
 24 Code, while away from home or regular places of

1 business in performance of services for the Associa-  
 2 tion.

3 **“SEC. 325. BYLAWS, STANDARDS, AND DISCIPLINARY AC-**  
 4 **TIONS.**

5 “(a) ADOPTION AND AMENDMENT OF BYLAWS AND  
 6 STANDARDS.—

7 “(1) PROCEDURES.—The Association shall  
 8 adopt procedures for the adoption of bylaws and  
 9 standards that are similar to procedures under sub-  
 10 chapter II of chapter 5 of title 5, United States  
 11 Code (commonly known as the ‘Administrative Pro-  
 12 cedure Act’).

13 “(2) COPY REQUIRED TO BE FILED.—The  
 14 Board shall submit to the President, through the  
 15 Department of the Treasury, and the States (includ-  
 16 ing State insurance regulators), and shall publish on  
 17 the website of the Association, all proposed bylaws  
 18 and standards of the Association, or any proposed  
 19 amendment to the bylaws or standards of the Asso-  
 20 ciation, accompanied by a concise general statement  
 21 of the basis and purpose of such proposal.

22 “(3) EFFECTIVE DATE.—Any proposed bylaw  
 23 or standard of the Association, and any proposed  
 24 amendment to the bylaws or standards of the Asso-  
 25 ciation, shall take effect, after notice under para-

1 graph (2) and opportunity for public comment, on  
 2 such date as the Association may designate, unless  
 3 suspended under section 329(c).

4 “(4) RULE OF CONSTRUCTION.—Nothing in  
 5 this section shall be construed to subject the Board  
 6 or the Association to the requirements of subchapter  
 7 II of chapter 5 of title 5, United States Code (com-  
 8 monly known as the ‘Administrative Procedure  
 9 Act’).

10 “(b) DISCIPLINARY ACTION BY THE ASSOCIATION.—

11 “(1) SPECIFICATION OF CHARGES.—In any pro-  
 12 ceeding to determine whether membership shall be  
 13 denied, suspended, revoked, or not renewed, or to  
 14 determine whether a member of the Association  
 15 should be placed on probation (referred to in this  
 16 section as a ‘disciplinary action’) or whether to as-  
 17 sess fines or monetary penalties, the Association  
 18 shall bring specific charges, notify the member of  
 19 the charges, give the member an opportunity to de-  
 20 fend against the charges, and keep a record.

21 “(2) SUPPORTING STATEMENT.—A determina-  
 22 tion to take disciplinary action shall be supported by  
 23 a statement setting forth—

24 “(A) any act or practice in which the mem-  
 25 ber has been found to have been engaged;

1           “(B) the specific provision of this subtitle  
2           or standard of the Association that any such  
3           act or practice is deemed to violate; and

4           “(C) the sanction imposed and the reason  
5           for the sanction.

6           “(3) INELIGIBILITY OF PRIVATE SECTOR REP-  
7           RESENTATIVES.—Board members appointed pursu-  
8           ant to section 324(c)(3) may not—

9           “(A) participate in any disciplinary action  
10          or be counted toward establishing a quorum  
11          during a disciplinary action; and

12          “(B) have access to confidential informa-  
13          tion concerning any disciplinary action.

14   **“SEC. 326. POWERS.**

15          “In addition to all the powers conferred upon a non-  
16   profit corporation by the District of Columbia Nonprofit  
17   Corporation Act, the Association shall have the power to—

18          “(1) establish and collect such membership fees  
19          as the Association finds necessary to impose to cover  
20          the costs of its operations;

21          “(2) adopt, amend, and repeal bylaws, proce-  
22          dures, or standards governing the conduct of Asso-  
23          ciation business and performance of its duties;

1           “(3) establish procedures for providing notice  
2           and opportunity for comment pursuant to section  
3           325(a);

4           “(4) enter into and perform such agreements as  
5           necessary to carry out the duties of the Association;

6           “(5) hire employees, professionals, or special-  
7           ists, and elect or appoint officers, and to fix their  
8           compensation, define their duties and give them ap-  
9           propriate authority to carry out the purposes of this  
10          subtitle, and determine their qualification;

11          “(6) establish personnel policies of the Associa-  
12          tion and programs relating to, among other things,  
13          conflicts of interest, rates of compensation, where  
14          applicable, and qualifications of personnel;

15          “(7) borrow money; and

16          “(8) secure funding for such amounts as the  
17          Association determines to be necessary and appro-  
18          priate to organize and begin operations of the Asso-  
19          ciation, which shall be treated as loans to be repaid  
20          by the Association with interest at market rate.

21   **“SEC. 327. REPORT BY THE ASSOCIATION.**

22          “(a) IN GENERAL.—As soon as practicable after the  
23          close of each fiscal year, the Association shall submit to  
24          the President, through the Department of the Treasury,  
25          and the States (including State insurance regulators), and

1 shall publish on the website of the Association, a written  
 2 report regarding the conduct of its business, and the exer-  
 3 cise of the other rights and powers granted by this sub-  
 4 title, during such fiscal year.

5 “(b) FINANCIAL STATEMENTS.—Each report sub-  
 6 mitted under subsection (a) with respect to any fiscal year  
 7 shall include audited financial statements setting forth the  
 8 financial position of the Association at the end of such  
 9 fiscal year and the results of its operations (including the  
 10 source and application of its funds) for such fiscal year.

11 **“SEC. 328. LIABILITY OF THE ASSOCIATION AND THE**  
 12 **BOARD MEMBERS, OFFICERS, AND EMPLOY-**  
 13 **EES OF THE ASSOCIATION.**

14 “(a) IN GENERAL.—The Association shall not be  
 15 deemed to be an insurer or insurance producer within the  
 16 meaning of any State law, rule, regulation, or order regu-  
 17 lating or taxing insurers, insurance producers, or other en-  
 18 tities engaged in the business of insurance, including pro-  
 19 visions imposing premium taxes, regulating insurer sol-  
 20 vency or financial condition, establishing guaranty funds  
 21 and levying assessments, or requiring claims settlement  
 22 practices.

23 “(b) LIABILITY OF BOARD MEMBERS, OFFICERS,  
 24 AND EMPLOYEES.—No Board member, officer, or em-  
 25 ployee of the Association shall be personally liable to any



1 person for any action taken or omitted in good faith in  
2 any matter within the scope of their responsibilities in con-  
3 nection with the Association.

4 **“SEC. 329. PRESIDENTIAL OVERSIGHT.**

5       “(a) REMOVAL OF BOARD.—If the President deter-  
6 mines that the Association is acting in a manner contrary  
7 to the interests of the public or the purposes of this sub-  
8 title or has failed to perform its duties under this subtitle,  
9 the President may remove the entire existing Board for  
10 the remainder of the term to which the Board members  
11 were appointed and appoint, in accordance with section  
12 324 and with the advice and consent of the Senate, in  
13 accordance with the procedures established under Senate  
14 Resolution 116 of the 112th Congress, new Board mem-  
15 bers to fill the vacancies on the Board for the remainder  
16 of the terms.

17       “(b) REMOVAL OF BOARD MEMBER.—The President  
18 may remove a Board member only for neglect of duty or  
19 malfeasance in office.

20       “(c) SUSPENSION OF BYLAWS AND STANDARDS AND  
21 PROHIBITION OF ACTIONS.—Following notice to the  
22 Board, the President, or a person designated by the Presi-  
23 dent for such purpose, may suspend the effectiveness of  
24 any bylaw or standard, or prohibit any action, of the Asso-

1 ciation that the President or the designee determines is  
 2 contrary to the purposes of this subtitle.

3 **“SEC. 330. RELATIONSHIP TO STATE LAW.**

4       “(a) **PREEMPTION OF STATE LAWS.**—State laws,  
 5 regulations, provisions, or other actions purporting to reg-  
 6 ulate insurance producers shall be preempted to the extent  
 7 provided in subsection (b).

8       “(b) **PROHIBITED ACTIONS.**—

9               “(1) **IN GENERAL.**—No State shall—

10                       “(A) impede the activities of, take any ac-  
 11 tion against, or apply any provision of law or  
 12 regulation arbitrarily or discriminatorily to, any  
 13 insurance producer because that insurance pro-  
 14 ducer or any affiliate plans to become, has ap-  
 15 plied to become, or is a member of the Associa-  
 16 tion;

17                       “(B) impose any requirement upon a mem-  
 18 ber of the Association that it pay fees different  
 19 from those required to be paid to that State  
 20 were it not a member of the Association; or

21                       “(C) impose any continuing education re-  
 22 quirements on any nonresident insurance pro-  
 23 ducer that is a member of the Association.

1           “(2) STATES OTHER THAN A HOME STATE.—

2       No State, other than the home State of a member  
3       of the Association, shall—

4           “(A) impose any licensing, personal or cor-  
5           porate qualifications, education, training, expe-  
6           rience, residency, continuing education, or  
7           bonding requirement upon a member of the As-  
8           sociation that is different from the criteria for  
9           membership in the Association or renewal of  
10          such membership;

11          “(B) impose any requirement upon a mem-  
12          ber of the Association that it be licensed, reg-  
13          istered, or otherwise qualified to do business or  
14          remain in good standing in the State, including  
15          any requirement that the insurance producer  
16          register as a foreign company with the sec-  
17          retary of state or equivalent State official;

18          “(C) require that a member of the Associa-  
19          tion submit to a criminal history record check  
20          as a condition of doing business in the State; or

21          “(D) impose any licensing, registration, or  
22          appointment requirements upon a member of  
23          the Association, or require a member of the As-  
24          sociation to be authorized to operate as an in-  
25          surance producer, in order to sell, solicit, or ne-

1           gotiate insurance for commercial property and  
2           casualty risks to an insured with risks located  
3           in more than one State, if the member is li-  
4           censed or otherwise authorized to operate in the  
5           State where the insured maintains its principal  
6           place of business and the contract of insurance  
7           insures risks located in that State.

8           “(3) PRESERVATION OF STATE DISCIPLINARY  
9           AUTHORITY.—Nothing in this section may be con-  
10          strued to prohibit a State from investigating and  
11          taking appropriate disciplinary action, including sus-  
12          pension or revocation of authority of an insurance  
13          producer to do business in a State, in accordance  
14          with State law and that is not inconsistent with the  
15          provisions of this section, against a member of the  
16          Association as a result of a complaint or for any al-  
17          leged activity, regardless of whether the activity oc-  
18          curred before or after the insurance producer com-  
19          menced doing business in the State pursuant to As-  
20          sociation membership.

21   **“SEC. 331. COORDINATION WITH FINANCIAL INDUSTRY**  
22                   **REGULATORY AUTHORITY.**

23          “The Association shall coordinate with the Financial  
24   Industry Regulatory Authority in order to ease any admin-  
25   istrative burdens that fall on members of the Association

1 that are subject to regulation by the Financial Industry  
 2 Regulatory Authority, consistent with the requirements of  
 3 this subtitle and the Federal securities laws.

4 **“SEC. 332. RIGHT OF ACTION.**

5       “(a) RIGHT OF ACTION.—Any person aggrieved by  
 6 a decision or action of the Association may, after reason-  
 7 ably exhausting available avenues for resolution within the  
 8 Association, commence a civil action in an appropriate  
 9 United States district court, and obtain all appropriate re-  
 10 lief.

11       “(b) ASSOCIATION INTERPRETATIONS.—In any ac-  
 12 tion under subsection (a), the court shall give appropriate  
 13 weight to the interpretation of the Association of its by-  
 14 laws and standards and this subtitle.

15 **“SEC. 333. FEDERAL FUNDING PROHIBITED.**

16       “The Association may not receive, accept, or borrow  
 17 any amounts from the Federal Government to pay for, or  
 18 reimburse, the Association for, the costs of establishing  
 19 or operating the Association.

20 **“SEC. 334. DEFINITIONS.**

21       “For purposes of this subtitle, the following defini-  
 22 tions shall apply:

23               “(1) BUSINESS ENTITY.—The term ‘business  
 24 entity’ means a corporation, association, partnership,

1       limited liability company, limited liability partner-  
2       ship, or other legal entity.

3               “(2) DEPOSITORY INSTITUTION.—The term ‘de-  
4       pository institution’ has the meaning as in section 3  
5       of the Federal Deposit Insurance Act (12 U.S.C.  
6       1813).

7               “(3) HOME STATE.—The term ‘home State’  
8       means the State in which the insurance producer  
9       maintains its principal place of residence or business  
10      and is licensed to act as an insurance producer.

11              “(4) INSURANCE.—The term ‘insurance’ means  
12      any product, other than title insurance or bail  
13      bonds, defined or regulated as insurance by the ap-  
14      propriate State insurance regulatory authority.

15              “(5) INSURANCE PRODUCER.—The term ‘insur-  
16      ance producer’ means any insurance agent or  
17      broker, excess or surplus lines broker or agent, in-  
18      surance consultant, limited insurance representative,  
19      and any other individual or entity that sells, solicits,  
20      or negotiates policies of insurance or offers advice,  
21      counsel, opinions or services related to insurance.

22              “(6) INSURER.—The term ‘insurer’ has the  
23      meaning as in section 313(e)(2)(B) of title 31,  
24      United States Code.

1           “(7) PRINCIPAL PLACE OF BUSINESS.—The  
 2       term ‘principal place of business’ means the State in  
 3       which an insurance producer maintains the head-  
 4       quarters of the insurance producer and, in the case  
 5       of a business entity, where high-level officers of the  
 6       entity direct, control, and coordinate the business  
 7       activities of the business entity.

8           “(8) PRINCIPAL PLACE OF RESIDENCE.—The  
 9       term ‘principal place of residence’ means the State  
 10      in which an insurance producer resides for the great-  
 11      est number of days during a calendar year.

12          “(9) STATE.—The term ‘State’ includes any  
 13      State, the District of Columbia, any territory of the  
 14      United States, and Puerto Rico, Guam, American  
 15      Samoa, the Trust Territory of the Pacific Islands,  
 16      the Virgin Islands, and the Northern Mariana Is-  
 17      lands.

18          “(10) STATE LAW.—

19               “(A) IN GENERAL.—The term ‘State law’  
 20      includes all laws, decisions, rules, regulations,  
 21      or other State action having the effect of law,  
 22      of any State.

23               “(B) LAWS APPLICABLE IN THE DISTRICT  
 24      OF COLUMBIA.—A law of the United States ap-  
 25      plicable only to or within the District of Colum-

1           bia shall be treated as a State law rather than  
2           a law of the United States.

3 **“SEC. 335. SUNSET.**

4           “The provisions of this subtitle, and any program or  
5 authorities established or granted therein or derived there-  
6 from, shall terminate on the date that is 2 years after the  
7 date on which the Association approves its first member  
8 pursuant to section 323.”.

9           (b) **TECHNICAL AMENDMENT.**—The table of contents  
10 for the Gramm-Leach-Bliley Act is amended by striking  
11 the items relating to subtitle C of title III and inserting  
12 the following new items:

“Subtitle C—National Association of Registered Agents and Brokers

“Sec. 321. National Association of Registered Agents and Brokers.

“Sec. 322. Purpose.

“Sec. 323. Membership.

“Sec. 324. Board of directors.

“Sec. 325. Bylaws, standards, and disciplinary actions.

“Sec. 326. Powers.

“Sec. 327. Report by the Association.

“Sec. 328. Liability of the Association and the Board members, officers, and  
employees of the Association.

“Sec. 329. Presidential oversight.

“Sec. 330. Relationship to State law.

“Sec. 331. Coordination with Financial Industry Regulatory Authority.

“Sec. 332. Right of action.

“Sec. 333. Federal funding prohibited.

“Sec. 334. Definitions.

“Sec. 335. Sunset.”.

Passed the Senate July 17, 2014.

Attest:

*Secretary.*





113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2244

## AN ACT

To extend the termination date of the Terrorism Insurance Program established under the Terrorism Risk Insurance Act of 2002, and for other purposes.